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Patent Docket: DCL2024/M5106

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Stuart M. Davis, et. al.)
Serial No.: 10/803,438) Group Art Unit: 1745
Exr. John S. Maples
Filed: March 18, 2004) Confirmation No. 5406
For: WAFER ALKALINE CELL)

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Certificate of Mailing

I certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria Virginia 22313-1450 on July 10, 2007.

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RESPONSE TO RESTRICTION

This communication is in response to the Official Action dated June 29, 2007 involving election/restriction.

In the Official Action of June 29, 2007, the Examiner has acknowledged that independent claims 1, 18, 27, and 60 are generic. However, the Examiner has required an election of species for prosecution on the merits to which the claims shall be restricted, if no generic claim is finally held to be allowable. Of the seven embodiments (species) all relating to cell shape as listed in the Action, Applicant provisionally elects Embodiment I: opposing sides parallel. At present an identification of the claims specifically readable thereon are claims 8 and 9 depending either directly or indirectly from base

claim 1; claim 23 depending from base claim 18; and claim 52 depending from base claim 27.

Applicant makes the provisional election with traverse in that the species are all related to cell shapes. A search of the art directed to alkaline wafer cells in general would inherently reveal cells of different shapes without necessitating additional searching. It would, therefore, be most efficient to prosecute this application in its entirety in that any restriction in this case would cause duplicity of effort by the Patent and Trademark Office as well as Applicant's Counsel. Applicant reserves the right to file a Divisional Application for the non-elected species.

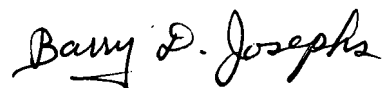
The restriction requirement is believed traversed and withdrawal of the restriction respectfully requested. However, that notwithstanding, Applicant has elected Species I: opposing sides parallel, with the identification of claims readable thereon as listed above. Further prosecution of the Application is requested.

Authorization is hereby given to debit Deposit Account 502271 for any amount owing or credit the same account for any overcharges in connection with this communication.

Date: July 10, 2007

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Respectfully submitted,



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